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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,411	09/28/2001	Bernardus Hendrikus Wilhelmus Hendriks	NL0006659	4352

7590

12/31/2002

Philips Electronic North American Corp.  
580 White Plains Road  
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EXAMINER

COLLINS, DARRYL J

ART UNIT

PAPER NUMBER

2873

DATE MAILED: 12/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/966,411	<b>Applicant(s)</b> HENDRIKS ET AL.
	<b>Examiner</b> Darryl J. Collins	<b>Art Unit</b> 2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2002.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6, 7 and 17 is/are rejected.
- 7) ☒ Claim(s) 2-5 and 8-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☒ All b) ☐ Some \* c) ☐ None of:  
 1. ☒ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s): _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> . | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Bressers et al (USPN 4829506). Bressers et al teach all of the claimed elements including an optical scanning device having a non-periodic phase structure (column 6, lines 61-64) and having the non-periodic phase structure arranged to compensate for comatic aberrations (column 3, lines 11-12).

Claims 1, 6 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Shiono et al (EP 0468410A1). Shiono et al teach of a diffractive optical lens having angular zones having substantially the same height (column 5, lines 28-30) with respect to a rotationally symmetrical aspheric shape and providing a plurality of elliptical grooves (Figure 3) for the correction of coma (abstract). Shiono et al also teach that the phase structure formed onto the optical element (column 2, lines 10-23).

Claims 1, 6, 7 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Londono et al (USPN 5260828). Londono et al teach of a diffractive lens element composed of a single material (column 1, lines 7-8) for the correction of coma (column 1, lines 67-68 through column 2, lines 1-2). Londono et al also teach all phase steps as being  $2\pi$  (column 7, lines 13-15).

*Allowable Subject Matter*

Claims 2-5 and 8-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the dependent claims, in such a manner that a rejection under 35 U.S.C. 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented, for example, in dependent claims 2 and 3 the prior art fails to teach of a 50% or 70% compensation, respectively, of the root mean square comatic wavefront error.

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hambleton (USPN 5745289), Buralli et al (USPN 5013133) and Soskind (USPN 6462874) teach of lenses having a diffractive optical element with annular zones.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darryl J. Collins whose telephone number is 703-308-6476. The examiner can normally be reached on 6:30 - 5:00 Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Y. Epps can be reached on 703-308-4883. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7724 for regular communications and 703-308-7724 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



djc  
December 24, 2002



Scott J. Sugaman  
Primary Examiner